

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANTHONY CHRIS PEARSON,

Defendant-Appellant.

UNPUBLISHED
November 1, 2007

No. 269099
Wayne Circuit Court
LC No. 05-009188-01

Before: Markey, P.J., and Saad and Wilder, JJ.

MEMORANDUM.

Following a jury trial, defendant was convicted of carrying a concealed weapon, MCL 750.227b, felon in possession of a firearm, MCL 750.224f, and possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b. He was sentenced to concurrent prison terms of 12 to 60 months for the convictions of carrying a concealed weapon and felon in possession of a firearm, and a consecutive two-year prison term for the felony-firearm conviction. He appeals as of right and challenges only an order requiring reimbursement of the cost of his court-appointed attorney. We vacate the reimbursement order and remand for reconsideration. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On the date of defendant's conviction, the trial court entered an order requiring him to reimburse the county \$1,160 as the cost of his court-appointed attorney. The order further stated that fines, costs, and fees not paid within 56 days of his final order were subject to a 20 percent late penalty on any outstanding balance. On the date of sentencing, the court entered an order directing the Department of Corrections to collect and remit funds from defendant's prisoner account until the obligation (\$2,000 total) was paid in full. The record does not indicate that the court considered defendant's financial circumstances before ordering reimbursement of the cost of the attorney. See *People v Dunbar*, 264 Mich App 240; 690 NW2d 476 (2004). We are not persuaded by the prosecution's argument that *Dunbar* was wrongly decided. Accordingly, we vacate the reimbursement order and remand to the trial court "for a decision on attorney fees that considers the defendant's ability to pay now and in the future." *People v Arnone*, 478 Mich 908; 732 NW2d 537 (2007).

The convictions and sentences are affirmed, the order for reimbursement of attorney fees is vacated, and the case is remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Jane E. Markey

/s/ Henry William Saad

/s/ Kurtis T. Wilder